



BERMUDA

LEGAL EXECUTIVES (REGISTRATION) ACT 2011

2011 : 25

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SCHEDULE

The Legal Executives Registration Council

WHEREAS it is expedient to establish a legal executive registration council and a scheme of registration for legal executives in Bermuda and to provide for connected matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

LEGAL EXECUTIVES (REGISTRATION) ACT 2011

Citation

1 This Act may be cited as the Legal Executives (Registration) Act 2011.

Interpretation

2 In this Act—

“the appointed day” means the day appointed under section 16;

“the Code” means the Code of Conduct provided for in section 11;

“the Council” means the Legal Executives Registration Council established by section 4;

“improper conduct” has the meaning referred to in section 11(3);

“legal executive” means a person registered as a legal executive under this Act;

“member”, in relation to the Council, means a member other than the Chairman;

“Minister” means the Minister responsible for Justice;

“prescribe” means prescribe by regulations;

“the Register” means the register provided for in section 6;

“to register” has the meaning assigned to it by section 8(4), and grammatical variations have corresponding meanings;

“regulations” means regulations made under section 14.

Restriction on use of professional names, etc.

3 (1) Subject to this Act, a person who is not a legal executive shall not in Bermuda—

(a) take or use, practise under, or carry on business under, any name, style, title or description which includes the words “legal executive”; or

(b) take or use any name, style, title or description (including one consisting of initials) which states or implies that he is a legal executive.

(2) A person shall not take or use, or affix to any premises used by him, any name, style, title or description (including one consisting of initials) which states or implies that he possesses qualifications as a legal executive which he does not in fact possess.

The Legal Executives Registration Council

4 (1) There shall be a body corporate called “the Legal Executives Registration Council”.

(2) In addition and without prejudice to any other functions that the Council has under this Act or under any other statutory provision, the Council is responsible for—

(a) the promotion and maintenance of professional standards among legal executives;

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- (b) the exercise of disciplinary control over legal executives; and
 - (c) such other matters of professional concern to legal executives as the Council may determine.
- (3) The Council shall consist of a chairman and such number of members, not being fewer than five, as the Minister may from time to time determine.
- (4) The Council is not exempt from any tax, duty, rate, levy or other charge whatsoever, whether general or local.
- (5) The provisions of the Schedule have effect in relation to the constitution of, and other matters concerning, the Council.

Qualifications for registration

- 5 Subject to this Act, a person is entitled to be registered as a legal executive if—
- (a) he possesses—
 - (i) Bermudian status within the meaning of the Bermuda Immigration and Protection Act 1956;
 - (ii) a permanent resident's certificate granted under that Act;
 - (iii) a current and valid permit issued under that Act entitling him to be employed in Bermuda as a legal executive; or
 - (iv) a spouse's employment rights in accordance with the provisions of section 60 of that Act; and
 - (b) he satisfies the Council that he—
 - (i) is a Fellow of the Institute of Legal Executives of England and Wales; or
 - (ii) possesses any other qualification awarded in a Commonwealth jurisdiction which, in the opinion of the Council, attests to a standard of education, training and practical experience comparable to that specified in subparagraph (i).

[Section 5(a)(ii) amended by 2021 : 41 s. 5 effective 1 December 2021]

The Register of Legal Executives

- 6 (1) There shall be a register, called "the Register of Legal Executives", which the Registrar-General shall maintain at his office.
- (2) The Register is an official record and shall contain—
- (a) the names and addresses of legal executives; and
 - (b) such other particulars as the Registrar-General considers to be necessary or expedient for identifying legal executives, or as may be prescribed.
- (3) It is the Registrar-General's duty to keep the Register correct in accordance with the provisions of this Act and the regulations, to remove the names of persons who are

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deceased or no longer entitled to be registered, and from time to time to make necessary alterations in the registered particulars of legal executives.

Annual gazetting of particulars

7 (1) As soon as may be practicable after the first day of January in every year, the Registrar-General shall publish in the Gazette a notice, in such form as he sees fit, setting out the names and other particulars entered in the Register on that date.

(2) A copy of the most recently gazetted notice is prima facie evidence in all courts that the persons whose names are included in the notice are legal executives; and the absence of a person's name from such a notice is prima facie evidence in all courts that he is not a legal executive.

Registration

8 (1) A person who wishes to be registered as a legal executive shall apply to the Council through the Registrar-General.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

(3) The Council shall consider the application as soon as practicable, and may either approve or reject it.

(4) Where the Council approves the application, it shall direct the Registrar-General to register the applicant, that is to say—

(a) to enter the required particulars relating to the applicant in the Register; and

(b) to issue to the applicant a certificate of registration in the prescribed form.

(5) Where the Council rejects the application, it shall record its decision and the reasons for it in writing, and direct the Registrar-General to inform the applicant.

(6) An applicant who is aggrieved by a decision of the Council under this section may appeal against it to the Supreme Court under section 13.

Voluntary removal of name from Register

9 A legal executive who wishes to have his name removed from the Register shall make application for the purpose to the Registrar-General by surrendering his certificate of registration; and the Registrar-General shall make the necessary alterations to the Register.

Striking off name from Register

10 (1) If the Council is satisfied that—

(a) the name of a legal executive has been struck off any register of legal executives maintained and kept in any place outside Bermuda; or

(b) a legal executive—

(i) has been convicted, whether in Bermuda or elsewhere, of an offence; or

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- (ii) is guilty of improper conduct,
of a kind which justifies his removal from the Register,

the Council shall, subject to this Act, decide as soon as may be practicable whether the legal executive's name should be struck off the Register.

(2) It is the duty of every legal executive whose name is struck off a register as described in subsection (1)(a) or who is convicted as mentioned in subsection(1)(b) to inform the Council immediately of that fact and the attendant circumstances.

(3) Before the Council decides to strike off a legal executive's name from the Register, it shall give him a reasonable opportunity to make such representations, and to give such explanations, in the matter as he may wish to make or give, and the Council shall take any such representations or explanations into account when making its decision.

(4) Where the Council decides to strike a legal executive's name off the Register, it shall direct the Registrar-General accordingly; but, before such a decision or direction can take effect the Council must inform the legal executive in writing of what the Council intends so that he may exercise his rights as mentioned in subsection (5) if he wishes.

(5) A legal executive who receives a notice in writing as mentioned in subsection (4) may appeal to the Supreme Court against the decision in question under section 13.

(6) Where a decision to strike a legal executive's name off the Register has taken effect, the Registrar-General shall—

- (a) inform him by notice in writing that his name has been so struck off;
- (b) by the same or another notice require him to return to the Registrar-General his certificate of registration within fourteen days of his receipt of the notice; and
- (c) publish in the Gazette notice of the striking off.

Conduct of legal executives

11 (1) The Council shall establish a Code of Conduct for legal executives as soon as may be practicable after the appointed day, and may amend the Code as it sees fit from time to time.

(2) The Council shall publish in such a manner as it sees fit—

- (a) the Code as first established; and
- (b) every amendment of the Code.

(3) The Code shall define the meaning of the expression "improper conduct" and that expression has in this Act the meaning so defined.

(4) If an allegation of improper conduct by a legal executive is brought to the notice of the Council, the Council shall enquire into the allegation as soon as practicable; and the following provisions of this subsection have effect in relation to any such enquiry—

- (a) the Council shall allow the legal executive—

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- (i) to appear before the Council;
- (ii) to be represented by counsel;
- (iii) to cross-examine witnesses;
- (iv) generally to make a full defence of his interests;
- (b) the proceedings are deemed to be judicial proceedings for the purposes of the provisions of the Criminal Code Act 1907 relating to perjury;
- (c) the Council shall exercise its powers under the Code and inform the legal executive of its decision by notice in writing;
- (d) the legal executive may appeal to the Supreme Court under section 13.

Restoration of name to Register

12 (1) A legal executive whose name has been removed from the Register under section 9 or struck off under section 10 may, after the expiry of one year after the date of the removal or striking off, make application to the Council through the Registrar-General for his name to be restored to the Register.

(2) The application shall be in the prescribed form and be accompanied by the prescribed fee.

(3) Upon receipt of the application, the Council shall consider—

- (a) the character and professional ability of the applicant;
- (b) where his name was struck off the Register, the reason why his name was so struck off;
- (c) his conduct after his name was removed from or struck off the Register;
- (d) any relevant provision of the Code; and
- (e) any other circumstance appearing to the Council to be relevant.

(4) In light of those considerations the Council shall decide to restore the applicant's name to the Register or not to restore it, as the case may require, but in any case the Council shall inform the applicant of its decision in writing.

(5) Where the Council has made a decision under subsection (4), it shall give the Registrar-General the requisite directions for implementing the decision, including, in the case where the applicant's name is to be restored to the Register, a direction to issue him a new certificate of registration.

(6) A person who is aggrieved by a decision of the Council under this section may appeal against that decision to the Supreme Court under section 13.

Appeals

13 (1) A person who is aggrieved by a decision to which this section applies may appeal to the Supreme Court against that decision within one month after the relevant date.

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(2) Upon hearing any appeal under subsection (1), the Supreme Court may make such order, including an order for costs, as it thinks just.

(3) The decisions to which this section applies, and the relevant date in relation to each such decision, are as set forth in the following table—

<u>Decision</u>	<u>Relevant Date</u>
(a) decision referred to in section 8(5);	date on which the aggrieved person received notice of the decision;
(b) decision referred to in section 10(6);	date on which the aggrieved person received notice under section 10(6)
(c) decision under section 11(4)(c);	date on which the aggrieved person received notice under section 11(4)(c);
(d) decision under section 12(4);	date on which the aggrieved person received notice under section 12(4).

(4) A decision to which this section applies does not take effect in relation to a person until the expiry of the period during which an appeal may be brought or, where he brings an appeal, until the appeal is decided or abandoned.

Regulations

14 (1) The Minister may make regulations —

- (a) prescribing forms, notices or other documents to be used for the purposes of this Act;
- (b) specifying the manner in which notices shall or may be served;
- (c) prescribing documents required to be forwarded with applications under this Act;
- (d) prescribing any other matter or thing which by or under this Act may be or is to be prescribed.

(2) The Minister shall consult the Council before he makes any regulations.

(3) Regulations made under this Act are subject to the negative resolution procedure.

Offences

15 (1) A person who contravenes—

- (a) section 3(1) or (2); or
- (b) section 10(2); or
- (c) a requirement lawfully made of him under section 10(6)(b),

is guilty of an offence and is liable on summary conviction to imprisonment for twelve months or to a fine of \$10,000 or to both.

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Consequential amendment

16 In Schedule 1 to the Government Fees Regulations 1976, after Head 29 insert the following—

“Head 29A

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(1) Application fee under section 8(2) \$25”.

Commencement

17 This Act comes into operation on such day as the Minister may appoint by notice published in the Gazette.

SCHEDULE

(section 4(5))

THE LEGAL EXECUTIVES REGISTRATION COUNCIL

1 The members of the Council shall be appointed by the Minister for a term not exceeding two years.

2 (1) In appointing members to the Council, the Minister shall ensure that at any time not fewer than three are legal executives.

(2) For the purposes of the first constitution of the Council, subparagraph (1) above has effect as if for the words "legal executives" the words "persons who in the Minister's opinion are eligible for registration under section 5" were substituted.

3 The Chairman shall be appointed annually by the Chief Justice from among the judges of the Supreme Court of Bermuda, but so that, if at any time a person holding office as chairman ceases to hold office as such or is otherwise unable or unfit to perform the duties of that office the Chief Justice shall appoint another judge to be chairman in his stead.

4 A Chairman or member whose term has expired may be reappointed.

5 If the Minister is satisfied that a member is by reason of ill health or absence from Bermuda or other sufficient cause unable to perform his duties as a member, the Minister may appoint a person to act for that member during the period of his incapacity.

6 A member may at any time resign his office by giving the Minister a signed notice in writing of his resignation.

7 The Chairman may at any time resign his office by giving the Chief Justice a signed notice in writing of his resignation.

8 The Minister may at any time declare the office of a member vacant if he is satisfied that the member—

(a) has failed without sufficient cause to attend three consecutive meetings of the Council;

(b) is incapacitated by physical or mental illness; or

(c) has otherwise become unable or unfit to perform his duties as a member.

9 A person appointed to fill a vacancy left by a member who did not complete his term of office may be appointed for the unexpired portion of that member's term and no longer, but an appointment to such a vacancy need not be made where the unexpired portion of the term is less than three months.

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10 Three members constitute a quorum at any meeting of the Council.

11 Any question for decision by the Council shall be decided by a majority of the members present and voting. Each member has one vote, except that the person presiding has a second vote if there is a tie.

12 An act of the Council is not invalid by reason only of a vacancy in the Council's membership or a defect in a member's appointment.

13 Subject to the above provisions, the Council may regulate its proceedings as it sees fit.

[Assent Date: 10 July 2011]

[Operative Date: 23 August 2013]

[Amended by:
2021 : 41]